

September 24, 2019

Via E-Mail and Federal Express

Ms. Anna Copeland
Enforcement Officer
Superfund Enforcement Assessment Section (6SF-TE)
U.S. EPA, Region 6
1445 Ross Avenue
Dallas, Texas 75202-2733

RECEIVED
19 SEP 25 PM 1:54
SUPERFUND DIV.
DIRECTOR'S OFF.

RE: **Second Supplemental Response to U.S. EPA's CERCLA 104(e) Information Request to the B.F. Goodrich Company**

Dear Ms. Copeland,

This letter serves as Goodrich Corporation's (formerly the B.F. Goodrich Company) ("Goodrich") second supplemental response to the United States Environmental Protection Agency's Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA") 104(e) Information Request dated February 19, 2019 and related to 1000 Goodrich Boulevard, Miami, Oklahoma (the "Request"). Goodrich submitted its initial response on May 15, 2019 and its First Supplemental Response on May 28, 2019. Subsequently, additional documents responsive to the Request have come to Goodrich's attention. Thus, Goodrich hereby submits this Second Supplemental Response.

Goodrich restates and incorporates the objections and explanations provided in its May 15, 2019 response as if fully restated herein. Goodrich objects to U.S. EPA's statement that Goodrich may be a potentially responsible party and disagrees with U.S. EPA's authority to pursue such CERCLA claims as to Goodrich at the Site. Further, Goodrich objects to U.S. EPA's Request as overly broad, unduly burdensome, and without a proper foundation as to Goodrich. Goodrich also objects to the Request to the extent it seeks information protected by the attorney client or attorney work product privileges.

Nothing in this response shall be deemed an admission of fact or liability. Goodrich reserves all rights and defenses that may be applicable to this Request and reserves the right to supplement its response at any time when information and/or documents become known to it. Subject to and without waiving these objections, Goodrich provides the enclosed Second Supplemental Response.



100027603

Ms. Anna Copeland
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Please let me know if you have any questions regarding the information and documents provided.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Heidi B. Friedman".

Heidi B. (Goldstein) Friedman

Enclosure

**Goodrich Corporation's Second Supplemental Response
to U.S. EPA's CERCLA 104(e) Information Request**

- 1. Please provide the full legal name, mailing address and phone number of the Respondent.**

Response to Request 1:

Goodrich Corporation
Four Coliseum Centre
2730 West Tyvola Road
Charlotte, North Carolina 28217
Phone: 704-423-7000

- 2. For each person answering these questions on behalf of the Respondent, provide full name, title, business address, business telephone and facsimile number.**

Response to Request 2: Thompson Hine, LLP, outside legal counsel to Goodrich Corporation ("Goodrich"), prepared this response in consultation with:

Bruce Amig
Goodrich Corporation
Manager, Remedial Programs
Four Coliseum Centre
2730 West Tyvola Road
Charlotte, North Carolina 28217
Phone: 704-423-7071
Fax: 704-423-7572

- 3. If the Respondent wishes to designate an individual for all future correspondence concerning this Site, including legal notices, please provide the individual's name, address, telephone number, email address and facsimile number.**

Response to Request 3:

Heidi B. (Goldstein) Friedman, Esq.
Thompson Hine, LLP
127 Public Square, 3900 Key Center
Cleveland, Ohio 44114
Heidi.Friedman@ThompsonHine.com
Telephone: 216-566-5559
Fax: 216-566-5800

4. Was the Respondent ever an owner of the Site? If "yes:"
- a. Please specify dates of ownership and how the Respondent became an owner. Please provide all documentation evidencing or relating to ownership or lease, including but not limited to purchase and sale agreements, deeds, leases, etc.
 - b. Please provide all evidence showing whether the Respondent, as an owner, controlled access to the Site; and
 - c. Please explain in narrative format and with supporting documentation all evidence relating to the presence of asbestos-contaminated materials on the Site and include a statement, with supporting documentation, on whether asbestos and asbestos-contaminated materials were present during the period of Respondent's ownership.

Response to Request 4: Goodrich objects to this request as overly broad, unduly burdensome, and beyond the scope of a reasonable request. The request seeks evidence and documents that may be up to seventy-four (74) years old, and Goodrich has not owned the Site for nearly twenty-six (26) years. Further, Goodrich owned the Site during a time when computers were not available or were not the primary method of storing documents. Thus, expecting Goodrich to produce all information and documents alluded to in this request is unduly burdensome. The request also lacks a proper foundation, as set forth in the letter attached to this response. Finally, Goodrich objects to this request to the extent it seeks information that may be protected as attorney-client communications or by the privilege for attorney work product.

Subject to and without waiving these objections, Goodrich owned the Site from 1945 to 1993. Goodrich built a tire manufacturing plant (the "Plant") at the Site in 1945 and operated the Plant until 1986. On August 1, 1986, Goodrich sold its tire business (excluding, among other things, the land and buildings at the Site) to Uniroyal Goodrich Tire Company, which later was acquired by Michelin North America, Inc.

When Goodrich ceased its operations at the Plant, it retained Waldemar S. Nelson and Company ("Waldemar") to perform a Phase I Environmental Assessment, an asbestos survey, and a Phase II Environmental Assessment at the Site. *1991-06-01 Waldemar Phase I; 1991-12 Asbestos Survey/Assessment Report; 1992-01 Phase II Environmental Assessment; and 1992 Asbestos Survey/Assessment Report*, attached to this Response as Bates No. GOODRICH000001-GOODRICH000448. In the December 1991 asbestos survey, Waldemar identified approximately seven (7) sources of damaged asbestos-containing material ("ACM") inside the buildings at the Site. Goodrich immediately retained Dykon Services, Inc., a certified asbestos abatement contractor, to abate the damaged asbestos in accordance with applicable asbestos regulations. *1992-07-16 Asbestos Abatement Contract and 1992-11 Asbestos Abatement Project Report*, attached to this Response as GOODRICH000449-GOODRICH000612. Goodrich spent at least \$800,000 to clean the Site and abate the damaged asbestos identified inside the buildings

in the Waldemar assessments. *1996-05-08 Keith A. Banke Affidavit*¹ and *1996-05-08 Robert A. Accarino Affidavit*, attached to this Response as Bates No. GOODRICH000724-GOODRICH000730. The Oklahoma Department of Labor ("ODOL") performed pre-inspections and closing inspections at the Plant and granted closure on each area abated and issued no asbestos violations. *See 1996-05-09 Keith Prieur Affidavit*, attached to this Response as GOODRICH000731-GOODRICH000734. Additionally, on August 4, 1994, the ODOL and the Oklahoma Department of Environmental Quality ("ODEQ") conducted a joint walk through inspection of the Plant and found no asbestos violations. *1994-08-05 Gay Russell (ODEQ) Memo*, attached to this Response as Bates No. GOODRICH000644-GOODRICH000645.

Goodrich transferred the Site "as is" to Save Our Children's Environment, Inc. ("SOCE") on September 16, 1993. *1993 Donation Agreement*, attached to this Response as Bates No. GOODRICH000613-GOODRICH000643. The Donation Agreement between Goodrich and SOCE explicitly states that ACM remained in buildings and equipment at the Site and that SOCE would acquire responsibility for that ACM. Additionally, prior to the transfer, Goodrich provided SOCE with numerous documents detailing the condition of the buildings at the Site. *See Donation Agreement* (Exhibit F), Bates No. GOODRICH000641-GOODRICH000642. However, in late 1994, SOCE began demolishing various buildings at the Site that contained asbestos and failed to comply with applicable asbestos regulations in performing that work. *See 1996-07-17 Findings of Fact and Conclusions of Law re Temporary Injunction Hearing*, attached to this Response as Bates No. GOODRICH000735-GOODRICH000738. There is no evidence that SOCE performed an asbestos survey or took appropriate steps to control or manage the asbestos prior to its initial demolitions. Further, by January 1995, ODOL and ODEQ inspected the Site (after receiving numerous complaints about SOCE's operations related to asbestos) and observed several bags of loose ACM inside the Plant and piles of possible ACM outside the buildings. *1995-05-01 Gay Russell (ODEQ) Memo*, attached to this Response as Bates No. GOODRICH000646-GOODRICH000657. SOCE received several NESHAP violations as a result of the inspection. *See id.* On July 7, 1995, SOCE acknowledged that it would handle all environmental problems at the Site in connection with its demolition activities. *1995-07-07 Letter to the Schoonover Company*, attached to this Response as Bates No. GOODRICH000658. Yet, later in 1995, additional ODOL and ODEQ inspections revealed that certain areas in the Plant still had not been evaluated for asbestos and ODEQ expressed concerns that SOCE's demolition plans would disturb asbestos throughout the Plant. *See 1995-08-18 ODEQ Memo* and *1995-12-05 Gay Russell (ODEQ) Memo*, attached to this Response as Bates No. GOODRICH000659-GOODRICH000678 and GOODRICH000680-GOODRICH000685.

On December 11, 1995, ODEQ filed a lawsuit against the B.F. Goodrich Company; Michelin North America, Inc.; Uniroyal Goodrich Tire Company, Inc.; SOCE; Wayne Ford; Asbestos Removal and Maintenance, Inc.; and KDS Environmental Services. *1995-12-11 Petition for Injunctive Relief and Civil Penalties*, attached to this Response as Bates No.

¹ This affidavit, as well as the Accarino and Prieur affidavits, are documents available from the State of Oklahoma's 1995 litigation regarding the Site.

GOODRICH000686-GOODRICH000702. ODEQ's claims included numerous environmental allegations, including claims related to asbestos contamination. *Id.* While this litigation was pending, without agreeing it had any role in current Site conditions at the time, Goodrich agreed to perform a limited asbestos survey and evaluate other environmental conditions at the Site to determine if there were any imminent hazards posed by the Site. *See 1996-04-05 Dames & Moore Survey and Report*, attached to this Response as Bates No. GOODRICH000703-GOODRICH000723. The report determined there were no imminent hazards posed by asbestos at the Site. On June 21, 1996, the Court handling ODEQ's environmental litigation issued an injunction against SOCE and Ottawa Management Company, Inc. (which had purchased the Site from SOCE in 1996) to abate the loose asbestos hazards in various buildings at the Site. *1996-07-17 Findings of Fact and Conclusions of Law re Temporary Injunction Hearing*, Bates No. GOODRICH000735-GOODRICH000738. The Court denied the injunction as to Goodrich, finding that ODEQ failed to prove it was likely to succeed on its claims that Goodrich owned or operated the Site during the time the asbestos issues were caused. *Id.*

Thus, Goodrich abated all asbestos issues at the Site prior to transferring the Site to SOCE in 1993 and even the Court agreed that Goodrich is not responsible for any subsequent releases of asbestos at the Site. *See 1995-10-18 BFG Letter to ODEQ re Asbestos Issues* and *1996-07-17 Findings of Fact and Conclusions of Law re Temporary Injunction Hearing*, attached to this Response as Bates No. GOODRICH000679 and GOODRICH000735-GOODRICH000738. Thus, liability for any asbestos issues and/or releases at the Site lies with subsequent Site owners and operators.

Supplemental Response to Request 4: Subject to and without waiving any objections, *see* Exhibit A, a Site timeline relating to asbestos at the Site, attached to this Response as Exhibit A. Additionally, *see 1992-08-31 Letter to Waldemar Nelson from Dykon Regarding Work Change Order* and *1993-10-25 Air Sample Analysis*, attached to this Response as Bates No. GOODRICH001020 and GOODRICH001057.

September 24, 2019 Second Supplemental Response to Request 4: Subject to and without waiving any objections, *see* Exhibit B attached to this Response, which is an updated Site timeline relating to asbestos at the Plant. Exhibit B outlines abatement activities that occurred at the Plant between 1986-1988. *Id.* Such activities involved removing asbestos from Plant equipment sold to outside purchasers, as well as repair of one piece of equipment remaining at the Plant. Bates No. GOODRICH001464-GOODRICH001599 (the documents identified and further described in Exhibit B).

5. Please identify all other owners of the Site. For each owner listed here,

- a. Please specify dates of ownership and, if known, how each owner obtained ownership. Please provide all documentation evidencing or relating to ownership or lease, including but not limited to purchase and sale agreements, deeds, leases, etc.
- b. Please provide all evidence showing whether the owners listed here controlled access to the Site; and
- c. Please explain in narrative format, including supporting documentation, whether asbestos and asbestos-contaminated materials were present during the ownership period of each owner.

Response to Request 5: Goodrich objects to this request to the extent it is unduly burdensome and well beyond the scope of a reasonable request. Goodrich also objects that this request seeks information not within the custody or control of Goodrich.

Subject to and without waiving these objections, Goodrich transferred the Site to SOCE on September 16, 1993. *1993-07-13 Donation Agreement*, Bates No. GOODRICH000613-GOODRICH000643. SOCE sold the Site to Ottawa Management Company, Inc. sometime in 1996. *1996-07-17 Findings of Fact and Conclusions of Law re Temporary Injunction Hearing*, Bates No. GOODRICH000735-GOODRICH000738. Further, Goodrich ordered a title search to determine all subsequent owners at the Site. Goodrich still has not received the results of the title search and reserves the right to supplement its response when the title search is completed.

Supplemental Response to Request 5: Subject to and without waiving any objections, Ottawa Management sold the property or portions of the property to Allan Kaspar in 2005. In 2015, Allan Kaspar sold the property to Real Estate Remediation, LLC. Real Estate Remediation, LLC appears to currently own the Site. See *1998-03-10 Order Modifying the Mandatory Injunction as to Ottawa Management Co.* and *2019-05-17 Commitment for Title Insurance*, attached to this Response as Bates No. GOODRICH001442; GOODRICH001454.

September 24, 2019 Second Supplemental Response to Request 5: Subject to and without waiving any objections, see September 24, 2019 Second Supplemental Response to Request 4 and the documents identified therein.

6. Was the Respondent ever an operator of the Site? If "yes:"

- a. Please identify the dates of operation and provide all supporting documentation evidencing the operation, including leases, purchase and sale agreements, etc. Identify the nature of the operation(s) at the Site and provide all supporting documentation, including agreements, etc.
- b. Please identify all evidence showing whether the Respondent, as operator, controlled access to the Site; and
- c. Explain in narrative format with supporting documentation all evidence relating to the presence of asbestos-contaminated materials at the Site,

including asbestos and asbestos-contaminated materials, during the period of Respondent's operation at the Site.

Response to Request 6: Goodrich objects to this request as overly broad and unduly burdensome. Goodrich also objects that this request seeks information and documents not within its custody and control. Goodrich has not owned the Site for nearly twenty-six (26) years and owned the Site at a time when computers were not available or were not the primary method of document storage. As such, many of the documents requested here likely are no longer available due to the passage of time. Goodrich further objects to this request to the extent it seeks information that may be protected as attorney-client communications or by the privilege for attorney work product.

Subject to and without waiving these objections, Goodrich operated the tire manufacturing Plant at the Site from 1945 to 1986. As to the remaining portions of request 6, *see* Response to Request 4 and the documents identified therein.

Supplemental Response to Request 6: Subject to and without waiving any objections, *see* Supplemental Response to Request 4 and the documents identified therein.

September 24, 2019 Second Supplemental Response to Request 6: Subject to and without waiving any objections, *see* September 24, 2019 Second Supplemental Response to Request 4 and the documents identified therein.

- 7. Please identify all other operators at the Site. For each operator listed here,**
- a. Please specify dates of operation and provide all documentation evidencing or relating to the operation, including but not limited to purchase and sale agreements, deeds, leases, etc.**
 - b. Please provide all evidence showing whether the operators listed here controlled access to the Site; and**
 - c. Please explain in narrative format and with supporting documentation all evidence for each operator listed here relating to the presence of asbestos-contaminated materials at the Site, including asbestos and asbestos-contaminated materials, during the period of Respondent's operation at the Site.**

Response to Request 7: Goodrich objects to this request to the extent it is overly broad and unduly burdensome. Goodrich also objects that this request seeks information and documents not within its custody and control. Further, due to the passage of time, the requested information may no longer be available.

Subject to and without waiving these objections, *see* Response to Request 5, as subsequent owners of the Site may have also operated the Site.

Supplemental Response to Request 7: Subject to and without waiving any objections, *see* Exhibit A and the documents identified therein.

8. Please identify the Respondent's corporate parent and all its corporate subsidiaries.

Response to Request 8: Goodrich objects to this request to the extent it is overbroad, unduly burdensome, lacks proper foundation, and is beyond the scope of a reasonable request. Goodrich also objects that this request seeks information not relevant to the Site.

Subject to and without waiving these objections, United Technologies Corporation is the parent of Goodrich Corporation.

9. Please explain in narrative format and with supporting documentation the condition of the buildings when Respondent purchased the Site and/or operated at the Site.

Response to Request 9: Goodrich objects to this request to the extent it is overly broad and unduly burdensome and lacks proper foundation. Goodrich also objects that this request seeks information and documents not within its custody and control. Further, due to the passage of time, the requested information may no longer be available. Goodrich further objects to this request to the extent it seeks information that may be protected as attorney-client communications or by the privilege for attorney work product.

Subject to and without waiving these objections, Goodrich has not located any information associated with the buildings at the Plant at the time it constructed the Plant, which would be shortly after the time it purchased the Site. Further responding, *see* Response to Request 4 and the documents identified therein.

10. Were any asbestos or asbestos-containing materials evident when Respondent purchased and/or operated at the Site?

Response to Request 10: Goodrich objects to this request as overly broad, unduly burdensome, and lacking a proper foundation. Goodrich also objects that this request seeks information and documents not within its custody and control. Further, due to the passage of time, the requested information may no longer be available.

Subject to and without waiving these objections, Goodrich built the manufacturing Plant on the Site in 1945. Further responding, *see* Response to Request 4 and the documents identified therein.

Supplemental Response to Request 10: Subject to and without waiving any objections, *see* Supplemental Response to Request 4 and the documents identified therein.

September 24, 2019 Second Supplemental Response to Request 10: Subject to and without waiving any objections, *see* September 24, 2019 Second Supplemental Response to Request 4 and the documents identified therein.

11. Were any asbestos or asbestos-containing materials in the buildings or surface soil areas, etc. disturbed during the years Respondent owned and /or operated the property? If "yes:

- a. Please provide a description of the activities that caused the asbestos or asbestos-containing materials to be disturbed in narrative format with supporting documentation.
- b. Please specify the location in the buildings or surface areas where the asbestos or asbestos-containing materials were disturbed? Please respond in narrative format with supporting documentation.

Response to Request 11: Goodrich objects to this request as overly broad and unduly burdensome. Goodrich also objects that this request seeks information and documents not within its custody and control. Due to the passage of time, the requested information and documents may no longer be available. Goodrich further objects to this request to the extent it seeks information that may be protected as attorney-client communications or by the privilege for attorney work product.

Subject to and without waiving these objections, *see* Response to Request 4 and the documents identified therein. Further responding, to the best of Goodrich's knowledge and belief based upon documents located to date, there was no asbestos or ACM in the surface soil during Goodrich's ownership or operation of the Site. With regard to asbestos or ACM in buildings, *see* Response to Request 4 and the documents identified therein.

Supplemental Response to Request 11: Subject to and without waiving any objections, *see* Supplemental Response to Request 4 and the documents identified therein.

September 24, 2019 Second Supplemental Response to Request 11: Subject to and without waiving any objections, September 24, 2019 Second Supplemental Response to Request 4 and the documents identified therein.

12. In what condition were the buildings when you sold the Site?

Response to Request 12: Goodrich objects to this request as overly broad and unduly burdensome. Goodrich also objects that this request seeks information and documents not within its custody and control. Due to the passage of time, the requested information may no longer be available. Goodrich further objects to this request to the extent it seeks information that may be protected as attorney-client communications or by the privilege for attorney work product.

Subject to and without waiving these objections, *see* Response to Request 4 and the documents identified therein.

Supplemental Response to Request 12: Subject to and without waiving any objections, *see* Supplemental Response to Request 4 and the documents identified therein.

September 24, 2019 Second Supplemental Response to Request 12: Subject to and without waiving any objections, *see* September 24, 2019 Second Supplemental Response to Request 4 and the documents identified therein.

13. Did Respondent contract, perform or obtain any asbestos remediation or inspections on the buildings or anywhere on the Site, including Phase 1 and Phase II Environmental Assessments etc.?

a. If yes, please provide copies of all reports, workplans etc.

Response to Request 13: Goodrich objects to this request to the extent it is overly broad and unduly burdensome. Goodrich also objects that this request seeks information and documents not within its custody and control. Due to the passage of time, the requested information and documents may no longer be available. Further, Goodrich objects to this request to the extent it seeks information not relevant to the asbestos allegations in the Request. Goodrich also objects to this request to the extent it seeks information that may be protected as attorney-client communications or by the privilege for attorney work product.

Subject to and without waiving these objections, *see* Response to Request 4 and the documents identified therein.

Supplemental Response to Request 13: Subject to and without waiving any objections, *see* Supplemental Response to Request 4 and the documents identified therein.

September 24, 2019 Second Supplemental Response to Request 13: Subject to and without waiving any objections, *see* September 24, 2019 Second Supplemental Response to Request 4 and the documents identified therein.

14. Did any releases of asbestos into the environment occur at or from the Site? If the answer to the preceding question is anything but an unqualified "no," identify:

- a. When such releases occurred;**
- b. How the releases occurred (i.e. renovation, repair, etc.).**
- c. The amount of each hazardous substances, pollutants, or contaminants released;**
- d. Where such releases occurred;**
- e. Any and all activities undertaken in response to each such release or threatened release, including the notification of any agencies or governmental units about the release.**

- f. Any and all investigations of the circumstances, nature, extent or location of each release or threatened release, including the results of any soil, water (ground and surface), or air testing undertaken; and
- g. The names of all persons with information relating to these releases.

Response to Request 14: Goodrich objects to this request to the extent it requires a legal conclusion. Goodrich also objects that this request is overly broad and unduly burdensome and goes beyond Goodrich's time period of ownership and operation at the Site. Goodrich further objects that this request seeks information and documents not within its custody and control. Finally, Goodrich objects to this request to the extent it seeks information that may be protected as attorney-client communications or by the privilege for attorney work product.

Subject to and without waiving these objections, Goodrich has not located any information or documents indicating any release of asbestos into the environment during its ownership and operation of the Site.

Supplemental Response to Request 14: Subject to and without waiving any objections, upon information and belief, there were no releases of asbestos into the environment during Goodrich's ownership and operation of the Site.

15. Identify all federal, state and local authorities that regulated the Respondent and/or that interacted with the Respondent. Your response is to address all interactions and in particular all contacts from agencies/departments that dealt with health and safety issues and environmental concerns.

Response to Request 15: Goodrich objects to this request to the extent it is extensively overbroad, unduly burdensome, and beyond the scope of any reasonable request as it seeks information well beyond the scope of addressing the alleged asbestos present at the Site. Goodrich further objects that this request seeks information and documents not within its custody and control. Goodrich has not owned the Site for nearly twenty-six (26) years and owned the Site at a time when computers were not available or were not the primary method of document storage. Thus, due to the passage of time, certain documents and information may no longer be available.

Subject to and without waiving these objections, the documents identified to date confirm Goodrich interacted with at least ODEQ, ODOL, U.S. EPA, and the City of Miami at the Site at various times during its ownership and operation of the Site. *See* Response to Request 4 and the documents identified therein.

September 24, 2019 Second Supplemental Response to Request 15: Subject to and without waiving any objections, Goodrich met with Oklahoma officials several times in connection with the abatement and removal of asbestos from equipment sold to outside purchasers. *See April 17, 1987 Memo re TAAC Asbestos Removal; August 5, 1987 Memo from T. Butterfield; September*

16, 1987 Butterfield Correspondence to N.S. Rose; and June 23, 1988 Correspondence from T. Butterfield to N.S. Rose, Bates Nos. GOODRICH001469, GOODRICH001494, GOODRICH001527, and GOODRICH001590.

16. Provide a list of all local, state and federal environmental permits ever granted for the Facility or any part thereof (e.g., RCRA permits, NPDES permits, etc.).

Response to Request 16: Goodrich objects to this request to the extent it is extensively overbroad, unduly burdensome, beyond the scope of any reasonable request as it seeks information well beyond the scope of addressing the alleged asbestos present at the Site and goes beyond Goodrich's time period of ownership and operation at the Site. Goodrich further objects that this request seeks information and documents not within its custody and control. Goodrich has not owned the Site for nearly twenty-six (26) years and owned the Site at a time when computers were not available or were not the primary method of document storage. Thus, due to the passage of time, certain documents and information may no longer be available. Finally, Goodrich objects to the use of the undefined term "Facility" as vague and ambiguous. In its Request, U.S. EPA defines "facility" to include the Site located at 1000 Goodrich Boulevard Miami, Oklahoma.

Subject to and without waiving these objections, the Plant had a number of permits during its operation, but we have not located any specific permits to date and have not engaged in a full search for this information due to the fact that the request is beyond the scope of a reasonable request that is focused on the alleged presence of asbestos at the Site.

17. Provide all reports, information or data related to asbestos at and around the Site. Provide copies of all documents containing such data and information, including both past and current aerial photographs as well as documents containing analysis or interpretation of such data.

Response to Request 17: Goodrich objects to this request to the extent it is overly broad, unduly burdensome, beyond the scope of a reasonable request, and seeks information beyond the time period of Goodrich's ownership and operation of the Site. Goodrich further objects that this request seeks information and documents not within its custody and control. Goodrich has not owned the Site for nearly twenty-six (26) years and owned the Site at a time when computers were not available or were not the primary method of document storage. Thus, due to the passage of time, certain documents and information may no longer be available. Finally, Goodrich objects to this request to the extent it seeks information protected by the attorney client or attorney work product privileges

Subject to and without waiving these objections, *see* Response to Request 4 and the documents identified therein. Additionally, pursuant to documents available from the 1995 environmental litigation filed by ODEQ, SOCE performed some assessment of asbestos at the Site. *See* 1995-05-01 Gay Russell (ODEQ) Memo; 1995-08-18 ODEQ Memo; and 1995-12-05 Gay Russell

(DEQ) Memo, Bates No. GOODRICH000646-GOODRICH000657; GOODRICH000659-GOODRICH000678; and GOODRICH000680-000685.

Supplemental Response to Request 17: Subject to and without waiving any objections, *see* Supplemental Response to Request 4 and the documents identified therein.

September 24, 2019 Second Supplemental Response to Request 17: Subject to and without waiving any objections, *see* September 24, 2019 Second Supplemental Response to Request 4 and the documents identified therein.

18. If Respondent believes there may be any person(s) able to provide a more detailed or complete response to any of the preceding questions and/or sub-questions or any person(s) who may be able to provide additional responsive documents, please identify such person(s) and the additional information Respondent believes they may have.

Response to Request 18: As a subsequent owner and operator of the Site, Wayne Ford, former President and Director of SOCE, may have additional information and/or documents responsive to this Request. It is Goodrich's understanding that Mr. Ford managed the asbestos issues at the Site during SOCE's ownership and operation of the Site. Upon information and belief, Mr. Ford may currently reside at 1600 East Reno Street, Broken Arrow, Oklahoma 74012.

EXHIBIT

B¹

¹ Exhibit A was produced with the May 28, 2019 First Supplemental Response.

Goodrich Corporation
Miami, OK Site Timeline
Prepared for September 24, 2019 Second Supplemental 104(e) Response

Supplemental Response to Request 4: Further responding and subject to and without waiving any objections, Goodrich prepared the timeline below to summarize the asbestos- related events at the Site based on the documents Goodrich has located to date.

September 24, 2019 Second Supplemental Response to Request 4²: Further responding and subject to and without waiving any objections, Goodrich prepared the updated timeline below to summarize the asbestos-related events at the Site based on documents Goodrich has located to date.

- 1945 - Goodrich built the manufacturing Plant in Miami, OK (the "Plant"). *1996-05-08 Keith A. Banke Affidavit*, Bates No. GOODRICH000724.
- 1945-1986 - Goodrich operated the Plant until 1986. *1996-05-08 Keith A. Banke Affidavit*, Bates No. GOODRICH000724.
- **September 11, 1986 – Goodrich inspected the Plant to review asbestos abatement activities associated with removal of plant equipment and made a number of recommendations regarding abatement. *September 29, 1986 Katzenmeyer Memo re Miami, OK Plant Visit*, Bates No. GOODRICH001464.**
- February 16, 1987 – Stanley Engineering, Inc. tested the manufacturing Plant and determined levels of asbestos were not elevated. *1987-02-16 Letter to ODOL from Stanley Engineering*, Bates No. GOODRICH000739.
- **March 1987 – Goodrich contractor appropriately disposed of asbestos at the City of Joplin Landfill. *March 4, 1987 Asbestos Disposal Form*, Bates No. GOODRICH001466.**
- **April 17, 1987 – A State of Oklahoma inspector approved Goodrich's proposed abatement procedures and provided recommendations regarding appropriate contractors. *April 17, 1987 Memo re TAAC Asbestos Removal*, Bates No. GOODRICH001468.**
- **May 20, 1987 – Goodrich entered into an agreement selling certain Plant equipment to The Armstrong Rubber Co. The Agreement provided that The Armstrong Rubber Co. would be responsible for managing any asbestos encountered in its removal of equipment. *May 20, 1987 Agreement*, Bates No. GOODRICH001473.**
- **July – September 1987 – Goodrich met with the Oklahoma Department of Labor ("ODOL") to discuss asbestos abatement procedures associated with the potential**

² Bolded items are new to this Second Supplemental Response. Items that are not bolded were submitted with the May 28, 2019 First Supplemental Response.

sale of 12 presses at the Plant. August 5, 1987 Memo from T. Butterfield, Bates No. GOODRICH001494.

- **August 17, 1987 – Goodrich sells certain Plant equipment to Armstrong Tire Company and requires that Armstrong Tire Company remove asbestos from that equipment prior to removing it from the Plant. 1987-08-17 Curing Press Purchases; 1987-11-30 Letter to Mechanical Insulation Systems, Inc.; 1988-10-19 Letter to Dykon Services, Inc., Bates No. GOODRICH000756; GOODRICH000759; GOODRICH000895.**
- **August 18, 1987 – Goodrich internally recommended removal of asbestos on several pieces of equipment that could be de-installed. August 18, 1987 Memo from N.S. Rose, Bates No. GOODRICH001497.**
- **August 1987 – Goodrich obtained an estimate from a qualified OSHA consultant regarding managing and overseeing asbestos abatement activities at the Plant to ensure any abatement was conducted safely and in compliance with the law. August 26, 1987 OSHA Consultant Alan M. Segnar Asbestos Abatement Proposal, Bates No. GOODRICH001506.**
- **August 27, 1987 – Capital Equipment purchased presses from the Plant and contracted with Mechanical Insulation Systems, Inc. to remove asbestos on those presses. August 27, 1987 Cover Letter from Capital Equipment, Bates No. GOODRICH001523.**
- **September 1987 – Mechanical Insulation Systems, Inc. proposed asbestos abatement techniques and disposal locations for equipment removal at the Plant. September 9, 1987 Mechanical Insulation Systems, Inc. Twenty Day Notice Form and September 17, 1987 Mechanical Insulation Systems, Inc. Twenty Day Notice Form, Bates No. GOODRICH001524 and GOODRICH001529.**
- **September 1987 – Goodrich sold additional press equipment at the Plant. Goodrich clarified OSHA consultant Alan Segnar's role at the Plant as Goodrich's "eyes, ears and expert advisor relative to the asbestos abatement activity" relating to the sale of the 12 presses at the Plant. September 15, 1987 Goodrich Correspondence to Alan Segnar, Bates No. GOODRICH001525.**
- **September 16, 1987 – ODOL visited the Plant and reviewed the procedures for abating asbestos on the sold press equipment. ODOL approved Goodrich's asbestos abatement procedures. September 16, 1987 Butterfield Correspondence to N.S. Rose, Bates No. GOODRICH001527.**
- **October - November 1987 – Goodrich-retained OSHA consultant, Alan Segnar, provided air sampling analyses taken during asbestos abatement on the presses and noted no concerns with the sample results. October 14, 1987 Asbestos Air Sampling Analysis and November 20, 1987 Asbestos Air Sampling Analysis, Bates No. GOODRICH001530 and GOODRICH001543.**

- **December 8, 1987 – Goodrich continued to contract with Mechanical Insulation Systems, Inc. to abate asbestos on press equipment sold to outside buyers. *December 8, 1987 Correspondence from N.S. Rose, Bates No. GOODRICH001562.***
- **January 1988 – Mechanical Insulation Systems, Inc. proposed asbestos abatement techniques and disposal locations for equipment removal at the Plant. *January 4, 1988 Mechanical Insulation Systems, Inc. Twenty Day Notice Form, Bates No. GOODRICH001564.***
- **February 23, 1988 – Goodrich sold additional press equipment to Bridgestone USA, Inc. Goodrich noted that Bridgestone intended to remove asbestos on the purchased equipment. Goodrich agreed to pay for certain disposal costs. *February 23, 1988 Correspondence to Bridgestone, Bates No. GOODRICH001565.***
- **February - April 1988 – Goodrich contractor appropriately disposed of asbestos at the City of Joplin Landfill. *February 24, 1988 Asbestos Disposal Form and April 27, 1988 Asbestos Disposal Form, Bates No. GOODRICH001566 and GOODRICH001569.***
- **June 1988-July 1988 – OSHA consultant and Mechanical Insulations Systems, Inc. performed asbestos air sample analyses during asbestos abatement work. *OSHA Industrial Hygiene Analysis, Bates No. GOODRICH001571.***
- **June 23, 1988 – Goodrich met with Dykon and ODOL regarding asbestos abatement. *June 23, 1988 Correspondence from T. Butterfield to N.S. Rose, Bates No. GOODRICH001590.***
- **August 15, 1988 – Goodrich contracts with Mechanical Insulation Systems, Inc. to abate asbestos from certain damaged equipment at the Plant. *1988-08-15 Mechanical Insulation Systems, Inc. Asbestos Abatement Proposal, Bates No. GOODRICH000762.***
- **November 1988 – Dykon Services, Inc. performed asbestos air sampling during abatement activities. *November 29, 1988 Asbestos Analytics, Inc. Sampling, Bates No. GOODRICH001591.***
- **December 28, 1988 – Goodrich received a proposal from Dykon Services, Inc. to abate asbestos on damaged roof tank at the Plant. *December 28, 1988 Asbestos Clean up and Encapsulation of Roof Tank Correspondence, Bates No. GOODRICH001599.***
- **June 01, 1991 – Waldemar Nelson and Company (“Waldemar Nelson”) issued Phase I Environmental Site Assessment. *1991-06-01 Phase I Environmental Assessment, Bates No. GOODRICH000001.***
- **December 1991 – Waldemar Nelson issued an asbestos survey/report. *1991-12 Asbestos Survey-Assessment Report, Bates No. GOODRICH000042.***

- January 1992 – Waldemar Nelson issued a Phase II Environmental Site Assessment Report. *1992-01 Phase II Environmental Assessment*, Bates No. GOODRICH000149.
- June 25, 1992 – Waldemar Nelson provided Goodrich a cost estimate to provide abatement supervision and monitoring at the Plant. *1992-06-25 Letter from Waldemar Nelson re Cost Estimate*, Bates No. GOODRICH000898.
- July 16, 1992 – Dykon Services, Inc. sent Goodrich an asbestos abatement contract (saying abatement work would be completed by September 17, 1992). *1992-07-16 Asbestos Abatement Contract Documents*, Bates No. GOODRICH000449.
- July 21, 1992 – Dykon Services, Inc. began abatement work at the Plant. *1992-07-21 Asbestos Abatement Project Log and Related Documents*, Bates No. GOODRICH000906.
- July 24, 1992 – The Oklahoma Department of Labor (“ODOL”) provided a notice of inspection and asbestos project checklist. *1992-07-24 Notice of Inspection and Asbestos Project Checklist*, Bates No. GOODRICH001013.
- August 27, 1992 – Dykon Services, Inc., on behalf of Goodrich, began appropriately disposing of asbestos containing materials. *See 1992-08-1992-10 Waste Manifests*, Bates No. GOODRICH001024.
- October 10, 1992 – ODOL issued a Notice of Completion for the asbestos abatement at the Plant and stated the abatement was performed in accordance with the Rules for Abatement of Friable Asbestos Materials. Also, ODOL said that no violations of the rules were cited by inspectors during the project. *1992-12-07 Notice of Completion of Asbestos Abatement and Abatement Preparation Inspection Forms*, Bates No. GOODRICH001046.
- November 10, 1992 – Waldemar Nelson issued the final Asbestos Abatement Project Report. *1992-11 Asbestos Abatement Project Report*, Bates No. GOODRICH000467.
- 1993/1994 – ODOL and the Oklahoma Department of Environmental Quality (“ODEQ”) performed pre-inspections and closing inspections and gave Goodrich closure and found no problems with air quality. *See 1996-05-09 Keith Prieur Affidavit and 1995-11-06 Banke Memo*, Bates No. GOODRICH000731; GOODRICH001155.
- January 1993 – Goodrich met with Senators Boren and Nickles to discuss the Plant. Goodrich updated the senators that based on air sampling tests there is no asbestos hazard at the Plant. *See 1993-01 Agenda and Status Memo*, Bates No. GOODRICH001053.
- July 13, 1993 – Goodrich and SOCE entered into the Donation Agreement. *See 1993 Donation Agreement*, Bates No. GOODRICH000613.

- July 13, 1993 – Goodrich sent SOCE environmental reports regarding the Site, including the asbestos survey, assessment report, and the asbestos abatement project report. *See 1993 Donation Agreement*, Bates No. GOODRICH000641.
- September 16, 1993 – SOCE closed on the donation and accepted the Site. *1996-05-08 Keith A. Banke Affidavit*, Bates No. GOODRICH000724.
- March 16, 1994 – Goodrich ended its attempt to sell equipment at the Plant and walked away from the Plant (relinquishing any right to go into the Plant). *1996-05-08 Keith A. Banke Affidavit*; *1996-05-08 Butterfield Affidavit*; and *1996-05-08 Rose Affidavit*, Bates No. GOODRICH000724; GOODRICH001158; and GOODRICH001159.
- August 4, 1994 – ODOL and ODEQ performed a walk-through of the Site. No asbestos violations were found under either ODOL regulations governing worker health or the National Emission Standards for Hazardous Air Pollutants (NESHAP). *See 1994-08-05 Gay Russell ODEQ Memo*, Bates No. GOODRICH000644.
- August 1994-January 1995 – SOCE conducted demolition and salvage activity at the Plant. *See 1995-02-17 L&E Letter to SOCE*; *1995-03-20 KDS Letters and Project Design to ODEQ*; *1995-08-11 SOCE Asbestos Removal and Maintenance*, Bates No. GOODRICH001060; GOODRICH001069; GOODRICH001097.
- January 24, 1995, ODOL and ODEQ (acting on complaints received by ODOL) performed an unannounced inspection of the Site and found several bags of possible ACM and a pile of possible ACM outside. The ACM observed resulted in several NESHAP violations issued to SOCE. *See 1995-05-01 Gay Russell ODEQ Memo*, Bates No. GOODRICH000646.
- February 17, 1995 – One of SOCE's contractors, L&E Enterprises, Inc., complained in a letter to SOCE that banners indicating hazardous waste areas in the Plant that had been in place during L&E's initial inspection had been removed and SOCE never provided the environmental report it promised. *See 1995-02-17 L&E Letter to SOCE*, Bates No. GOODRICH001060.
- March 1995 – SOCE contacted KDS Environmental Services, Inc. to conduct a survey of the Plant. KDS submitted a plan to ODOL and ODEQ. *See 1995-03-20 KDS Letters and Project Design to ODEQ*, Bates No. GOODRICH001069.
- March 29, 1995 – ODOL and ODEQ inspect the Plant. *1995-03-31 Gay Russell ODEQ Memo*, Bates No. GOODRICH001078.
- April 3 to April 7, 1995 – KDS completed its initial asbestos abatement. *See 1995-03-31 Gay Russell ODEQ Memo*, Bates No. GOODRICH001078.
- July 28, 1995 – SOCE issued a project design for asbestos abatement. *See 1995-07-28 Project Design for Asbestos Abatement for SOCE*, Bates No. GOODRICH001084.

- August 1995 – KDS began additional abatement. Schoonover also began demolishing structures and salvaging material. Schoonover's work disrupted ACM. *See 1995-11-02 ODEQ and U.S. EPA NESHAP Inspection*, Bates No. GOODRICH001138.
- August 9, 1995 – Schoonover obtained a demolition permit from the City of Miami. The permit did not include asbestos. *See 1995-08-09 Schoonover Permit*, Bates No. GOODRICH001094.
- August 16, 1995 – An ODOL and ODEQ inspection identified a worker demolishing areas that had not been evaluated for asbestos. *1995-08-18 ODEQ Memo*, Bates No. GOODRICH000659.
- August 24, 1995 – ODEQ conducted a NESHAP asbestos abatement compliance inspection. ODEQ expressed concern with SOCE's demolition plans. *1995-12-5 Gay Russell ODEQ Memo*, Bates No. GOODRICH000680.
- August 25, 1995 – SOCE obtained a demolition permit. The SOCE permit stated an asbestos survey had been provided and all pollutants removal under ODEQ control. *1995-08-25 SOCE Permit*, Bates No. GOODRICH001134.
- September 26, 1995 – Keith Prieur (a Waldemar Nelson consultant) returned to the Plant and reported that he was surprised at what he saw. Mr. Prieur stated:
 - The Plant that we had left in such good condition now looked like a construction debris landfill in the back. It looked like someone had taken a bulldozer and driven through a wall to gain access. The plant was almost a structural hazard. Structural supports were falling down. There were several construction debris piles in the back of the Plant. It looked like whoever was doing the demolition was taking what it could salvage for value and leaving the rest. *1996-05-09 Keith Prieur Affidavit*, Bates No. GOODRICH000731.
- October 18, 1995 – Goodrich sent ODEQ a letter saying that Goodrich conducted an asbestos survey and remediated all friable asbestos at the Site prior to the transfer of the Site to SOCE, and that SOCE has responsibility for the asbestos. *1995-10-18 Letter to ODEQ re Asbestos Issue*, Bates No. GOODRICH000679.
- October 26, 1995 – After SOCE conducted certain remediation efforts, ODEQ and U.S. EPA performed a NESHAP asbestos compliance inspection at the Site. The inspectors found disturbed ACM lying throughout the Plant. ODEQ and U.S. EPA also found bags of trash containing ACM, as well as several piles of debris containing visible suspect ACM. ODEQ and U.S. EPA sampled suspect ACM materials and confirmed that they were ACM. *1995-11-02 ODEQ and U.S. EPA NESHAP Inspection*, Bates No. GOODRICH001138.
- December 11, 1995 – ODEQ filed a lawsuit regarding the Site. *1995-12-11 Petition for Injunctive Relief and Civil Penalties*, Bates No. GOODRICH000686.

- January 23, 1996 – Dames & Moore, on behalf of Goodrich, visited the Site with ODEQ to identify areas of concern. Keith Prieur from Waldemar Nelson joined Dames & Moore and said the Plant was in “shambles.” *1996-05-09 Prieur Affidavit*, Bates No. GOODRICH000731.
- February 7, 1996 – Goodrich, by and through counsel, submitted a workplan prepared by Dames & Moore to assess the Site. *1996-02-07 Letter from Goodrich Counsel to OK*, Bates No. GOODRICH001156.
- April 5, 1996 – Dames & Moore issued its Limited Asbestos Survey and Carbon Black, PCB Transformer, and Drummed Materials Evaluation Report and concluded the asbestos materials present did not pose an imminent hazard. *1996-04-05 Dames & Moore LAS Report*, Bates No. GOODRICH000703.
- June 21, 1996 – The court overseeing the 1995 State of Oklahoma litigation issued an injunction against SOCE and Ottawa Management to abate asbestos in various buildings at the Site, but denied the injunction as to Goodrich. *1996-07-21 Findings of Fact and Conclusions of Law for Temporary Injunction Hearing*, Bates No. GOODRICH000735.
- June 1996 – Ottawa Management issued an asbestos inspection and air monitoring report. *See 1996-06 Asbestos Inspection and Air Monitoring of Portion of BFG Plant*, Bates No. GOODRICH001160.
- September 26, 1996 – Ottawa Management Company, Inc. issued a Phase I, asbestos remediation plan, and progress report. *See 1996-09-26 Asbestos Remediation Plan, Phase I, and Progress report*, Bates No. GOODRICH001214.



McCORMICK & BRYAN, PLLC
ATTORNEYS AT LAW

cbryan@mccormickbryan.com

December 8, 2020

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Gloria Moran, Esq.
Assistant Legal Counsel
United States Environmental
Protection Agency
Region 6
1201 Elm Street, Suite 500
Dallas, Texas 75270

Re: General Notice Letter for the Goodrich Asbestos Site, Miami, Ottawa County, Oklahoma

Dear Ms. Moran:

I am receipt of David Eppler's e-mail, dated October 20, 2020, enclosing the referenced General Notice Letter (GNL). In response, Michelin North America, Inc. hereby advises the United States Environmental Protection Agency (EPA) that it has no liability for costs related to the asbestos cleanup at the Goodrich Asbestos Site (Site).

Michelin has never owned, operated, or otherwise had control of the Site, and, therefore, cannot be a potentially responsible party for the asbestos at the Site. Moreover, Michelin has not conducted any activities at the Site with regard to the asbestos. *See Michelin's Response to EPA's Request for Information, Goodrich Asbestos Site, dated May 16, 2019 and documents produced therewith.*

The Evidence of Liability attached to the General Notice Letter is wholly irrelevant to this Site in that the alleged evidence relates solely to Uniroyal, Inc. Uniroyal, Inc. never owned, operated, or any had any control over the Site. *See Michelin's Response to EPA's Request for Information, Goodrich Asbestos Site, dated May 16, 2019 and documents produced therewith regarding Michelin's knowledge regarding ownership and operations of the Site.*

The findings of the court in *State of Oklahoma v. Michelin North America, Inc. et al*, District Court for Ottawa County, Oklahoma, Case No. CJ-95-641, also support Michelin's position that it has no liability for the asbestos at the Site. In that case, the court entered a Mandatory Injunction against Ottawa Management Company for the cleanup of the asbestos at the Site. *See Order Modifying Mandatory Injunction as to Ottawa Management Company, Inc. filed of record on March 10, 1998, (Exhibit "A")*. In 2005, Ottawa Management Company, Inc. notified the Court of the sale of the Site to Allan Kaspar. However, Ottawa Management Company, Inc. expressly notified the court that it was not seeking a release from the Mandatory Injunction. *See Ottawa Management Company's Notification of Sale of Real Estate to Allan Kaspar, filed on May 18, 2005, and provided to EPA in Michelin's Response to EPA's Request for Information, Goodrich Asbestos Site, dated May 16, 2019.*

EPA's General Notice Letter notes that Michelin is addressing environmental issues at the Site related to benzene contaminated groundwater. Michelin is conducting that work under a Consent Order with the Oklahoma Department of Environmental Quality (DEQ), dated October 10, 1997. The Consent Order was never intended to include any asbestos issues at the Site. In all the 23 years that Michelin has been working with DEQ to satisfy the requirements of the Consent Order, not a single requirement of DEQ has involved any asbestos cleanup or asbestos issues of any kind. The Consent Order provides that DEQ will provide Preliminary Remediation Goals for the Site. Not one of the goals is for asbestos. *See Consent Order for Remediation, dated October 10, 1997 (Exhibit "B") and Preliminary Remediation Goals, dated September 26, 1997 (Exhibit "C").*

On the other hand, DEQ has pursued others for cleanup of the asbestos at the Site, including Ottawa Management Company and Real Estate Remediation, LLC.-- all prior or current owners and operators of the Site or portions of the Site. *See Michelin's Response to EPA's Request for Information, Goodrich Asbestos Site, dated May 16, 2019, and documents produced therewith regarding Michelin's knowledge of ownership and operations of the Site.*

Based on the above evidence, Michelin hereby respectfully requests that EPA withdraw its potential liability claim against Michelin for the Goodrich Asbestos Site.

Sincerely,


CONNIE M. BRYAN

cc: David Eppler
Susan D. Webster

bcc: Matt Staab, Esq.

IN THE DISTRICT COURT OF OTTAWA COUNTY
STATE OF OKLAHOMA

STATE OF OKLAHOMA ex rel.,
THE OKLAHOMA DEPARTMENT OF
ENVIRONMENTAL QUALITY,

Plaintiff,

v.

MICHELIN NORTH AMERICA, INC.,
et al.,

Defendants.

Case No. CJ-95-641

FILED IN THE
DISTRICT COURT OF
OTTAWA COUNTY, OKLAHOMA

MAR 10 3 07 PM '98

SEAN J. GIBBS
CLERK
BY _____ DEPUTY

**ORDER MODIFYING MANDATORY INJUNCTION AS TO
OTTAWA MANAGEMENT COMPANY, INC.**

This matter comes on before the Court on the joint oral application of Plaintiff, STATE OF OKLAHOMA ("STATE"), represented by C. Miles Tolbert, Assistant Attorney General, Intervenor, CITY OF MIAMI ("MIAMI"), represented by James W. Thompson, City Attorney, and Defendant, OTTAWA MANAGEMENT COMPANY, INC. ("OMCI"), represented by D. Kenyon Williams, Jr., Esq, to approve a settlement of the captioned case which results in this ORDER MODIFYING MANDATORY INJUNCTION AS TO OTTAWA MANAGEMENT COMPANY, INC. ("ORDER"). The parties acknowledge that STATE has been substituted as party Plaintiff, replacing State of Oklahoma ex rel., the Oklahoma Department of Environmental Quality.

STATE announces that it is applying for approval of this ORDER to conserve the resources of OMCI so that resources which might otherwise be expended contesting liability may be devoted instead to remedying the environmental problems at OMCI's facility in Miami, Oklahoma ("FACILITY"). Further, STATE announces that it does not intend by its approval of this ORDER to indicate that the remedial steps announced in this ORDER are adequate to address the

EXHIBIT "A"

contamination at the FACILITY. Rather, STATE announces the remedial steps announced in this *ORDER* are not adequate to address all of the environmental conditions at the FACILITY, but represents instead only a partial remedy.

OMCI announces that it does not admit, and specifically denies, any liability to the STATE, MIAMI, or any other person or entity arising out of the allegations of the STATE and MIAMI in the present case. Further, OMCI announces that it does not intend, by its approval of this *ORDER*, to admit any facts, allegations, recitations, or conclusions of law alleged in the STATE's or MIAMI's Petition, or in this *ORDER*. Further, OMCI announces that it specifically denies any responsibility for remediation and disposal activities which it has voluntarily agreed to be ordered to perform with regard to the FACILITY and specifically denies any legal or equitable liability under any laws, regulations, ordinances, or common law for any costs or damages incurred by any party in connection with the said FACILITY. Finally, OMCI reports to the Court that, through October, 1997, OMCI has expended \$610,940 in its efforts to comply with this Court's Orders. STATE announces that it cannot confirm the accuracy of this figure.

STATE, MIAMI and OMCI announce to the Court that they have entered into a settlement of the captioned case agreeing to the following:

1. In consideration of OMCI's agreeing to this *ORDER*, STATE and MIAMI agree to dismiss with prejudice Case No. CJ-95-641 insofar as it pertains to Danny Wallis, a named individual Defendant in the present case.

2. In consideration of STATE's and MIAMI's agreeing to this *ORDER*, which modifies and replaces this Court's June 26, 1996 *Mandatory Injunction on Loose Asbestos* as to OMCI only, OMCI agrees to and shall perform the acts set forth hereinafter. For the purposes of applying and

interpreting this *ORDER*, STATE, MIAMI and OMCI ask the Court to use the following definitions:

First Definition: The term "asbestos containing materials" shall mean

"Any material that contains asbestos of one percent (1%) or more."

Second Definition: The term "seal" or "sealed" shall mean

"Close or cover all openings of the exterior walls or roof with impermeable materials (such as sheet metal) so as to prevent, to the extent reasonably practicable, unlawful or unauthorized entry and the release of asbestos fibers. With regard to doors, keep them closed and locked and install and/or maintain weatherstripping to the extent reasonably practicable taking into account the design of the door(s). 'Seal' or 'sealed' shall not mean air tight."

Third Definition: The term "FACILITY" shall mean

"All of the buildings, located on the real property which is the subject of this action, which are identified on the "FACILITY Diagram" attached to this *ORDER* and incorporated by reference."

Fourth Definition: The term "Powerhouse Building" shall mean

"That building, located on the real property which is the subject of this action, which is so identified on the "FACILITY Diagram" attached to this *ORDER* and incorporated by reference."

Fifth Definition: The term "Warehouse Building" shall mean

"That building, located on the real property which is the subject of this action, which is so identified on the "FACILITY Diagram" attached to this *ORDER* and incorporated by reference."

Sixth Definition: The term "Autoclave Area" shall mean

"That portion of the Warehouse Building, located on the real property which is the subject of this action, which is so identified on the "FACILITY Diagram" attached to this *ORDER* and incorporated by reference."

Seventh Definition: The term "Area 4" shall mean

"That portion of the Warehouse Building, located on the real property which is the subject of this action, which is so identified on the "FACILITY Diagram" attached to this *ORDER* and incorporated by reference."

Eighth Definition: The term "Demolition Debris" shall mean

"Those materials, including soil and associated Asbestos Containing Materials, located outside the FACILITY which were generated during demolition activities."

Ninth Definition: The term "Cooling Tower Pit" shall mean

"The pit, located just east of the Powerhouse Building, which consists of four, open-topped concrete tanks or cells."

Tenth Definition: The term "Rooftop Devices" shall mean

"Any equipment, tanks, or piping located on any roof of the FACILITY."

Eleventh Definition: The term "Significantly Damaged Asbestos Containing Materials" shall mean

"Asbestos Containing Materials that are so damaged that the materials cannot be repaired and maintained under OMCI's operations and maintenance of asbestos in place program."

Based upon the foregoing, OMCI agrees to and shall perform the following acts:

A. With regard to the FACILITY, OMCI shall, according to the following schedule and subject to work plans approved by the State:

- i. Powerhouse Building and Autoclave Area of the FACILITY: Immediately seal and maintain in a sealed condition the Powerhouse Building and the Autoclave Area until such building or area are scheduled for recovery for commercial use and human occupancy.
- ii. Area 4 of the FACILITY: By April 1, 1998, either (a) erect a solid impermeable barrier in the East-West passageway of Area 4 to prevent workers from being exposed to asbestos fibers (in excess of

Oklahoma Department of Labor or OSHA permissible exposure limits) from the adjoining areas or (b) cease use of that passageway altogether.

- iii. Unoccupied Areas of FACILITY. Within three months of the date of this *ORDER*, seal and maintain in a sealed condition all unoccupied areas of the FACILITY.
- iv. Cooling Tower Pit. Within six months of the date of this *ORDER*, OMCI shall conduct appropriate analysis of the water which has collected in the Cooling Tower Pit and, with approval of STATE, lawfully dispose of the water. OMCI's water analysis results shall be provided to STATE at least 60 days prior to disposal of the water. After lawfully disposing of the water (or during the water disposal process) but in all events within six months of the date of this *ORDER*, OMCI shall remove and lawfully dispose of Asbestos Containing Materials found in the Cooling Tower Pit and then either (a) fill the Cooling Tower Pit with appropriate fill material so as to prevent the cells from filling with water, or (b) utilize the otherwise unregulated materials comprising the four cells as fill material for pits inside the Warehouse Building. OMCI's election to use otherwise unregulated materials from the cells as fill material is conditioned upon OMCI's demonstration to the STATE that it can be done lawfully and may only occur after the provisions of subparagraph xiv below have been complied with for each such pit.
- v. Powerhouse Building: Within nine months of the date of this *ORDER*, repair or remove and properly dispose of all loose or Significantly Damaged Asbestos Containing Materials within the Powerhouse Building and above the basement of the said building and seal the basement.
- vi. Demolition Debris: Within one year of the date of this *ORDER*, remove and lawfully dispose of all loose Asbestos Containing Materials (including soil) and Demolition Debris and remove and lawfully dispose of all Demolition Debris located outside the FACILITY. If OMCI demonstrates to the STATE that it can be done lawfully, otherwise unregulated concrete block and concrete debris may be used as fill material for pits inside the Warehouse Building, once the provisions of subparagraph xiv below have been complied with for each such pit.

- vii. Autoclave Area: Within one year of the date of this *ORDER*, remove and properly dispose of all Asbestos Containing Materials that are located at or above the basement of the Autoclave Area and seal the basement.
- viii. Carbon Black: Within one year of the date of this *ORDER*, remove and lawfully dispose of carbon black not lawfully stored or contained, with the exception of fugitive dust inside the FACILITY which will be addressed under ordinary maintenance. If OMCI demonstrates to the STATE that it can be done lawfully, otherwise unregulated soils collected in connection with the carbon black may be used as fill material for pits inside the Warehouse Building once the provisions of subparagraph xiv below have been complied with for each such pit.
- ix. Rooftop Devices: Within eighteen months of the date of this *ORDER*, remove and lawfully dispose of all Asbestos Containing Material from any Rooftop Devices.
- x. Asbestos Abatement: Within four years of the date of this *ORDER*, or thirty days prior to occupancy (whichever first occurs), remove and lawfully dispose of, or encase in concrete in place, all Significantly Damaged Asbestos Containing Materials from the interior of the FACILITY.
- xi. Powerhouse Building: Within four years of the date of this *ORDER*, or thirty days prior to occupancy (whichever first occurs), remove and lawfully dispose of all Asbestos Containing Materials from the interior of the Powerhouse Building which are not encased in metal jacketing.
- xii. Temporary Onsite Storage of Abated Asbestos Containing Materials: For up to four years from the date of this *ORDER*, OMCI may temporarily store abated Asbestos Containing Materials (generated through OMCI's activities under this *ORDER*) in secure on-site location(s) approved by the STATE after OMCI has demonstrated that such storage is properly performed.
- xiii. Offsite Disposal of Abated Asbestos Containing Materials: Within four years of the date of this *ORDER* or thirty days prior to occupancy of a storage area (whichever first occurs), remove and lawfully dispose of off-site all Asbestos Containing Materials stored pursuant to the preceding provision.

- xiv. Pits in the FACILITY: Take representative samples and analyze liquids, sludges, and debris in the pits in the Warehouse Building and drain and lawfully dispose of the pit contents on the following schedule:

<u>Year</u>	<u>No. of Pits</u>
1	2
2	3
3	4
4	5

B. OMCI shall continue to satisfactorily perform its Oklahoma Department of Labor regulated "asbestos operations and maintenance program."

C. OMCI shall maintain continuously in force not less than \$4,200,000 fire and casualty insurance on the FACILITY. OMCI shall maintain the FACILITY and grounds in a lawful and commercially reasonable manner. The requirement that OMCI maintain an unoccupied area in a "sealed" condition, shall be relaxed during the time that unoccupied areas of the FACILITY are the subject of recovery or renovation projects.

D. OMCI shall provide notice to MIAMI, c/o the City Attorney, and to STATE, c/o the Attorney General of STATE, sixty (60) days in advance of the transfer of any portion of the south eighty (80) acres of the property which is the subject of this action.

E. OMCI shall make it a condition of any transfer of ownership, all or partial, or of operations of the property, which is the subject of this action, or of the FACILITY, that the transferee must assume all of OMCI's obligations under this *ORDER*. Such transfer shall not relieve OMCI of any of its obligations under this *ORDER*.

F. OMCI shall, by appointment, provide reasonable access to Michelin North America, Inc. and its contractors and to the STATE and its designees for the investigation and

remediation of environmental conditions at the FACILITY. Further, OMCI shall provide STATE reasonable access to the FACILITY for the purposes of: (a) inspecting the condition of the FACILITY and OMCI's activities pursuant to this *ORDER* and the results of such activities; (b) inspecting OMCI's records and contracts for work to be performed pursuant to this *ORDER*; (c) conducting such tests as STATE deems necessary to determine the environmental conditions of the FACILITY; (d) preserving an audio, visual, or other form of record of the environmental conditions of the FACILITY; and (e) verifying information provided by OMCI with regard to the environmental conditions of the FACILITY. OMCI shall allow STATE to inspect and copy all records, files, photographs, documents, sampling and monitoring data, and other writings generated for or in the course of OMCI's compliance with this *ORDER*, except with regard to matters which are protected by attorney-client privilege or attorney work product. Nothing contained in this *ORDER* shall be interpreted as limiting STATE's inspection authority under any state law. All STATE contractor(s) or representative(s) shall comply with OMCI's reasonable health and safety plans. All STATE contractor(s) or representative(s) shall so identify themselves when requesting access to the property.

3. With regard to OMCI and named individual Defendant Danny Wallis, STATE and MIAMI have waived, and the Court receives STATE's and MIAMI's dismissal with prejudice of, any claims which STATE and/or MIAMI have, as of the date of the entry of this *ORDER*, for enforcement or litigation costs, attorneys' fees, money damages, penalties and/or fines that have been or could have been asserted by STATE and/or MIAMI in the present action against named individual Defendant Danny Wallis. Nothing contained in this *ORDER* is intended or should be construed as limiting STATE's right or MIAMI's right in the future to assert penalties or fines

against OMCI for its intentional or negligent failure to comply with this *ORDER* or any obligation OMCI may in the future have toward the STATE or MIAMI.

4. Nothing contained in this *ORDER* shall be construed as or constitute an admission by OMCI or named individual Defendant Danny Wallis of liability or any set of facts that could lead to any liability pertaining to the claims alleged by STATE and/or MIAMI, nor shall anything in this *ORDER* be construed or constitute an admission that STATE and/or MIAMI is entitled to any relief based on such claims. This *ORDER* shall supersede and replace the provisions of the Agreement entered into by the STATE, MIAMI, and OMCI on the 3rd day of September, 1997.

5. Nothing contained in this *ORDER* shall be construed to relieve OMCI of its obligations to comply with any applicable provisions of local, state, or federal law including, but not limited to, the National Emission Standards for Hazardous Air Pollutants, the Clean Water Act, the Comprehensive Environmental Response, Compensation and Liability Act, the Resource Conservation and Recovery Act, the Toxic Substances Control Act, or any state program thereunder. Notwithstanding the foregoing, OMCI shall not be responsible for any liability specifically or by inference assumed by either or both Defendant BF Goodrich and Defendant Michellin U.S.A. under their respective settlement agreements in this case.

6. This *ORDER* shall be binding on STATE, MIAMI, and OMCI and any third parties having actual or constructive notice of it. This *ORDER*, which modifies and replaces the Court's June 26, 1996, Mandatory Injunction on Loose Asbestos upon OMCI, shall terminate upon the Court's receipt of written notice from the STATE that OMCI has demonstrated that the terms of this *ORDER* have been satisfactorily completed. OMCI shall provide STATE with written notice of completion of the terms of this *ORDER* and STATE shall have one-hundred-twenty (120) days

within which to provide the Court with written notice in the form of a release and satisfaction of the judgment which this *ORDER* represents. In the event a dispute arises with regard to whether OMCI has satisfactorily completed its obligations under this *ORDER*, either party may make application to the Court for such a determination.

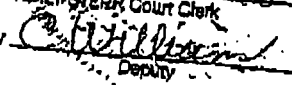
7. If requested by the Court, STATE, MIAMI, and OMCI shall appear at such times as the Court directs for semi-annual status hearings until the parties have satisfied all of their obligations under this *ORDER*.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by this Court that the settlement announced to the Court today, and agreed upon by the STATE, MIAMI and OMCI, and as fully set forth in this *ORDER*, is hereby approved.

IT IS FINALLY ORDERED, ADJUDGED AND DECREED BY THE COURT, that this *ORDER* resolves all pending issues between Plaintiff, STATE OF OKLAHOMA, Intervenor, CITY OF MIAMI, and Defendant, OTTAWA MANAGEMENT COMPANY, INC., and that Defendant OTTAWA MANAGEMENT COMPANY, INC. is excused from further participation in the present case.


Dated this 10TH day of March, 1998.


JUDGE OF THE DISTRICT COURT


State of Oklahoma } ss.
Ottawa County }
I, Beverly Stepp, Court Clerk, do hereby certify
that the above is a full, true and complete copy of the
document in the above entitled case; Case No. CS-95-641
as the same remains on file in my office.
In witness whereof I hereunto set my hand and
affix the seal of said Court, of Miami, Oklahoma, on the
10th day of March, 19 98.
BEVERLY STEPP, Court Clerk
By 
Deputy

APPROVED:

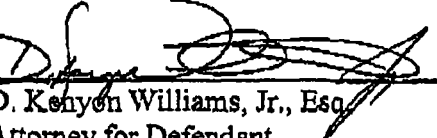
STATE OF OKLAHOMA

By: 
C. Miles Tolbert
Assistant Attorney General
Attorney for Plaintiff

CITY OF MIAMI

By: 
James W. Thompson
City Attorney
Attorney for Intervenor

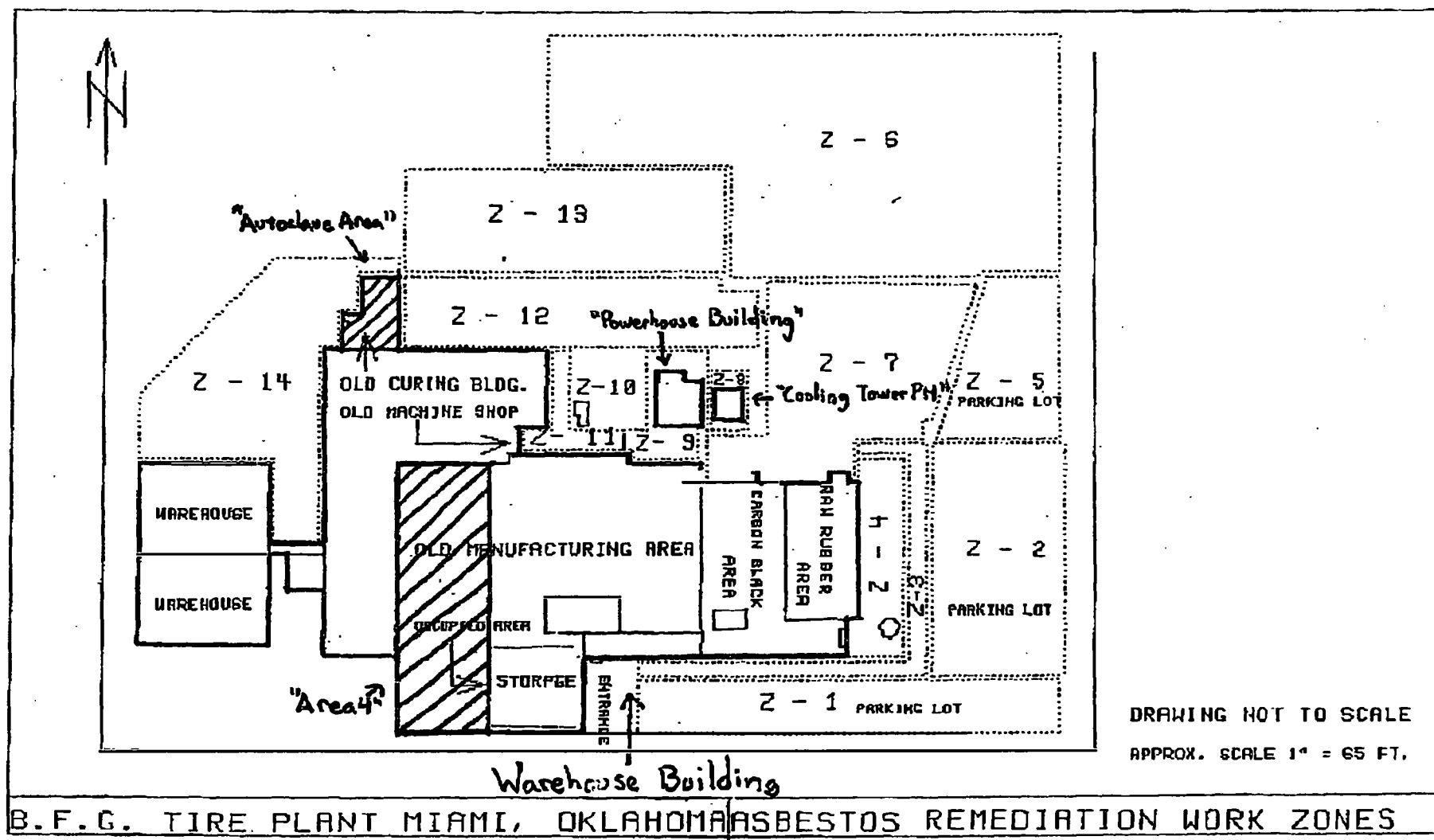
OTTAWA MANAGEMENT COMPANY, INC.

By: 
D. Kenyon Williams, Jr., Esq.
Attorney for Defendant

FILED IN FILE NO. 1-2103240000

NO. 582

P. 13/15



Facility Diagram
EXHIBIT "A"

COPY

OKLAHOMA DEPARTMENT OF ENVIRONMENTAL QUALITY
WASTE MANAGEMENT DIVISION

OKLAHOMA
Dept. of Environmental Quality

IN THE MATTER OF)

Michelin North America, Inc.,)

Respondent)

No. 97-324

OCT 10 1997

Filed by: SM
Hearing Clerk

CONSENT ORDER FOR REMEDIATION

I. INTRODUCTION

1. This Consent Order is entered into voluntarily by the Oklahoma Department of Environmental Quality (DEQ) and Michelin North America, Inc. (Michelin), Respondent. The Order concerns the voluntary clean-up (Work) of a portion of the former B.F. Goodrich Tire Company site in Miami, Oklahoma (Site), to be performed and carried out by Michelin.

2. The Attorney General of Oklahoma filed a Complaint on behalf of the Oklahoma Department of Environmental Quality, Waste Management Division, the matter entitled State of Oklahoma ex rel., et al., Case No. CJ-95-641; District Court of Ottawa County, Oklahoma in connection with the Site. In exchange for Michelin's agreement to execute this Consent Order, DEQ hereby agrees to simultaneously dismiss both Michelin and the Uniroyal Goodrich Tire Company from that lawsuit. Such dismissal will be without prejudice.

3. Michelin does not admit, and specifically denies, any liability to the Attorney General of Oklahoma, the Oklahoma Department of Environmental Quality or any other person or entity arising out of the allegations of the Complaint, nor does Michelin admit any facts, allegations, recitations or conclusions of law alleged in the Complaint or this Consent Order. Michelin also specifically denies any responsibility for the disposal of any hazardous substances or hazardous substance-containing materials at the Site and specifically denies any legal or equitable liability under any laws, regulations, ordinances or common law for any costs or damages incurred by any party in connection with the Site.

4. The parties agree that settlement of this matter without litigation will save time and resources, that it is in the public interest, and that the entry of this Consent Order is the most appropriate means of resolving this matter.

5. Michelin agrees to conduct a risk-based remediation at the Site, to be more fully described in Article VII, "Work to be Performed."

EXHIBIT "B"

NOW, THEREFORE, without trial, adjudication, or admission of any issue of law, fact, liability or responsibility by Michelin, it is hereby Ordered, Adjudged, and Decreed:

II. JURISDICTION

6. This Consent Order is entered pursuant to 27A:§2-3-506 and 75 O.S. 1991, §309(d). The Environmental Quality Code (27A:§2-1-101 *et seq.*) provides that the DEQ has the power and duty to be the official agency of the State of Oklahoma, as designated by law, over numerous aspects of groundwater protection, controlled industrial waste and non-hazardous industrial waste management and disposal, wastewater management, and pollution control. Further, the Code provides the DEQ with jurisdiction over air quality, water programs (including but not limited to point source and non-point source pollution within the jurisdiction of the Department, public and private water supplies, public and private wastewater treatment, water protection and discharges to waters of the state), waste management programs (hazardous waste, solid waste, radiation, municipal, industrial, commercial and other waste) and special projects/service programs (planning, interagency coordination, technical assistance programs, laboratory services and laboratory certification, recycling, education and dissemination of information). (27A:§2-3-202 A.7) Pursuant to 27A:§2-10-201, §210-301, §2-7-121 F. and §2-3-502, the DEQ has jurisdiction over the remediation of abandoned or inactive solid waste sites, non-hazardous industrial solid waste sites, hazardous waste sites, and the authority to compel responsible parties to undertake appropriate response or remedial actions. Under 27A:§2-6-105, causing wastes to be placed in a location where they are likely to cause pollution of air, land or waters of the state is deemed to be a public nuisance and the Executive Director has the authority to order it ceased.

7. For the purposes of this Consent Order, the Respondent stipulates to the jurisdiction of DEQ and agrees to undertake all actions required by the terms and conditions of this Consent Order. In any action by the DEQ to enforce the terms of this Consent Order, the Respondent agrees not to contest the jurisdiction of the Executive Director of DEQ to enforce this Consent Order.

III. PARTIES BOUND

8. This Consent Order shall apply to and be binding upon DEQ and the Respondent, their agents, successors, and assigns. Respondent is responsible for carrying out all actions required of it by this Consent Order. The signatories to this Consent Order certify that they are authorized to execute and legally bind the parties they represent to this Consent Order. No change in the ownership or corporate status of the Respondent shall alter its responsibilities under this Consent Order.

IV. DISCLAIMER

9. Neither entry into nor performance of this Consent Order shall constitute or be construed as an admission or acknowledgment by Michelin of any fact, legal issue or conclusion of law, or of any liability, fault or responsibility, or of a waiver of any rights, privileges, or defenses, or as evidence of such, nor shall such be admissible in evidence against Michelin in any proceeding, other than a proceeding by the State of Oklahoma, including DEQ, to enforce this Consent Order, and Michelin expressly denies any liability, fault or responsibility with respect to the Site.

V. OTHER CLAIMS

10. DEQ and Michelin retain their respective rights to assert claims against other persons not parties to this Consent Order, and nothing in this Consent Order shall constitute or be construed as a release from any claim, cause of action or demand in law or equity against any person, firm, partnership or corporation not a signatory to this Consent Order for any liability it may have arising out of or relating in any way to the generation, storage, treatment, handling, transportation, release, or disposal of any hazardous substances, pollutants, or contaminants found at, taken to, or taken from the Site.

11. This Consent Order does not attempt to determine the degree of contribution, if any, by Michelin and/or other parties to the environmental contamination of the Site.

VI. RESERVATIONS OF RIGHTS AND COVENANT NOT TO SUE

12. DEQ reserves the right to bring an action against Michelin under the Environmental Quality Code's statutory nuisance provision, 27A O.S. §2-6-105, and Oklahoma general nuisance law, 50 O.S. § 1-17, for recovery of any costs incurred in the event that DEQ performs the Work, as well as any future costs incurred by the State of Oklahoma in connection with response activities conducted by it at this Site. Provided, however, that upon issuance of the notice provided for in Paragraph 23, the DEQ covenants not to sue, not to take any administrative action, and not to execute judgment against Michelin for any and all civil obligations or liability, including future liability, to the State of Oklahoma for any claims or causes of action arising from or related to releases or threatened releases of hazardous substances from the Site.

13. Except as expressly provided in this Consent Order, each party reserves all rights and defenses it may have.

14. Following satisfaction of the requirements of this Consent Order, Michelin shall have resolved its liability to DEQ for the matters that are the subject of this Consent Order.

VII. WORK TO BE PERFORMED

15. All aspects of the Work to be performed by Michelin pursuant to this Consent Order shall be under the direction and supervision of a qualified Project Manager, the selection of whom shall be subject to approval by DEQ. Within 10 days after the effective date of this Consent Order, Michelin shall notify DEQ in writing of the name and qualifications of the Project Manager proposed to be used in carrying out Work under this Consent Order.

16. Michelin shall perform the work as follows:

A. Upon receipt of the Preliminary Remediation Goals (PRGs) from the DEQ, Michelin shall evaluate the need for site-specific risk assessment and shall use the DEQ's PRGs or shall calculate site-specific risk-based remediation goals subject to DEQ approval; such approval not to be unreasonably withheld. The portion of the Site to be remediated by Michelin includes only those areas of concern or potential concern identified in the final Work Plan and subsequent, mutually agreeable, modifications.

B. Based upon the approved and mutually agreed upon remediation goals, Michelin shall develop and implement a Work Plan for DEQ approval; such approval not to be unreasonably withheld. Michelin shall perform any necessary Field Work in accordance with said Work Plan and shall, if reasonably necessary, modify the Work Plan, with DEQ approval.

C. DEQ and Michelin shall prepare a mutually agreeable remedy for the Site. Once DEQ and Michelin have determined a remedy, Michelin shall submit a Remedial Design for DEQ approval; such approval not to be unreasonably withheld. After the DEQ has approved the Remedial Design plan, Michelin shall begin Remedial Action in accordance with the Work Plan.

17. Nothing herein shall preclude Michelin from conducting any additional work with respect to the Site including, without limitation, health and environmental studies to identify human exposure to and sources of contamination at the Site. DEQ shall have an opportunity to participate and/or review and comment on any such work.

18. Michelin may recommend from time to time changes in methodology, Scope of Work, information, deliverables and schedules for the Work. Any changes must receive written approval from DEQ before they may be implemented.

19. If DEQ amends or disapproves any report, plan, or other deliverable under this Consent Order and Michelin disagrees with the amendment or disapproval, Michelin shall have the right to detail their disagreement with DEQ in writing. Michelin may also invoke the dispute resolution clause in Section XIII.

20. In the event that Michelin amends and revises a deliverable upon receipt of DEQ disapproval, if there is subsequent DEQ disapproval of the revised deliverable, DEQ retains the right to: (a) allow Michelin an additional opportunity to submit an acceptable deliverable; (b) subject to Section XI, perform its own additional studies and prepare its own report or plan, and seek reimbursement from Michelin for its costs; or (c) seek any other appropriate relief.

21. For each deliverable required under this Consent Order, Michelin shall not proceed without receipt of any necessary DEQ approval, as set forth in the Work Plan. Failure of DEQ to expressly approve or disapprove of Michelin's submissions within the specified time periods shall not be construed as approval by DEQ. DEQ shall provide a written basis for any decision made on Michelin's submittals and notify Michelin of its decision. If DEQ fails to approve or disapprove Michelin's submittals within the time specified for such approval or disapproval, or within 30 days of Michelin's submittal if no time period is specified, the deadlines for further deliverables shall be extended by the amount of time in excess thereof.

22. Within thirty (30) days after Michelin concludes that the Work has been fully performed, Michelin shall so notify DEQ and shall submit a written report by a registered Professional Engineer and Michelin's Project Manager, certifying that the Work has been completed in full satisfaction of the requirements of this Consent Order. If, after receipt and review of the written report, DEQ determines that the Work has not been completed in accordance with this Consent Order, DEQ shall notify Michelin, in writing, of the activities that it believes must be undertaken to complete the Work and shall set forth, in the notice, a proposed schedule for performance of such activities. The parties shall use their best efforts to resolve any disagreements regarding the need for and nature of any additional activities to complete the Work. If Michelin agrees, it shall perform all the activities described in the notice in accordance with the specifications and schedules established therein.

23. Once DEQ concludes that the Work has been fully performed in accordance with this Consent Order, DEQ will notify Michelin in writing that the Work is complete. Upon issuance of such notice, this Consent Order shall terminate, except for any continuing obligations under Sections IX, XI, XV, and XVI.

VIII. DEQ PROJECT COORDINATOR

24. On or before the effective date of this Consent Order, DEQ shall designate a Project Coordinator. The Project Coordinator shall be responsible for overseeing the implementation of this Consent Order. To the maximum extent possible, communications from Michelin to DEQ shall be directed to the Project Coordinator by mail, with copies to such other persons as DEQ may designate. Communications include all documents, reports, approvals, and other correspondence submitted under this Consent Order.

25. DEQ shall direct all communications to Michelin to Michelin's Project Manager, unless Michelin designates, in writing, some other person as their contact.

IX. PROGRESS REPORTS

26. Michelin shall provide monthly progress reports to DEQ with respect to actions and activities undertaken pursuant to this Consent Order. The progress reports shall be submitted on or before the tenth day of each month following the effective date of this Consent Order. Michelin's obligation to submit progress reports continues until DEQ gives Michelin written notice under Paragraph 23. At a minimum, these progress reports shall: (1) describe the actions which have been taken to comply with this Consent Order during the prior month; (2) describe all Work planned for the next month, with schedules relating such Work to the overall project schedule; and (3) describe all problems encountered and any anticipated problems, any actual or anticipated delays, and solutions developed and implemented to address any actual or anticipated problems or delays.

X. ACCESS TO SITE

27. To the extent that the Site is presently owned in whole or in part by parties other than those bound by this Consent Order, Michelin will obtain, or use its best efforts to obtain, site access agreements from the present owner(s), to the extent such access is necessary pursuant to the Work Plan. Such agreements shall provide access for DEQ, Michelin, and their authorized representatives. If access agreements are not obtained within a reasonable time, Michelin shall immediately notify DEQ of its inability to obtain access. DEQ may obtain access for Michelin, in which case DEQ shall attempt to recover the costs of obtaining access from the owner(s) of the property. To the extent that DEQ does not recover such costs, Michelin agrees to reimburse DEQ and the State of Oklahoma the reasonable costs of obtaining such access. Any delay in performing or inability to perform any requirement under this Consent Order arising from Michelin's inability to obtain site access pursuant to the procedures set forth in this Section constitutes a Force Majeure as set forth in Section XV herein, and shall not constitute time for which any penalties shall accrue.

28. Under any site access agreements obtained from private parties, DEQ shall have the authority to enter and freely move about all property at the Site at all reasonable times for the purposes of: inspecting conditions, activities and the results of activities, records, operating logs, and contracts for the Work; reviewing the progress of Michelin in carrying out the terms of this Consent Order; conducting tests as DEQ or the Project Coordinator deem necessary; using a camera, sound recording, or other documentary type equipment; and verifying the data submitted to DEQ by Michelin. Michelin shall allow these persons to inspect and copy all records, files, photographs, documents, sampling and monitoring data, and other writings generated for or in the course of performing Work, except as to matters, other than analytical data, which are protected by privilege. Nothing in this paragraph shall be interpreted as limiting DEQ's

inspection authority under state law. All parties with access to the Site under this paragraph shall comply with Michelin's health and safety plans. All DEQ employees entering the Site shall identify themselves to Respondent's contractor(s) or representative(s).

XI. SAMPLING, ACCESS AND DATA/DOCUMENT AVAILABILITY

29. All data validated under the QAPP, including the results of sampling, tests, modeling or other data generated by Michelin or on Michelin's behalf for implementing this Consent Order, shall be submitted by Michelin to DEQ in the regular monthly progress reports as described in Section IX. Similarly, DEQ will timely make available to Michelin the results of sampling, tests, or data generated by DEQ.

30. At a party's request, any other party to this Consent Order shall allow split or duplicate samples to be taken of any samples collected in implementing this Consent Order. A sampling party shall notify all other parties at least three (3) days in advance of collecting any sample.

XII. RECORD PRESERVATION

31. DEQ and Michelin agree that all records and documents in their possession that are generated for or in the course of performing the Work shall be preserved during the conduct of this Consent Order and for a minimum of six (6) years after DEQ provides notice pursuant to Paragraph 23 of this Consent Order. Michelin shall acquire and retain copies of all such documents. After this six year period, Michelin shall notify DEQ at least 30 days before the documents are scheduled to be destroyed. If DEQ requests that the documents be saved, Michelin shall, at no cost to DEQ, give DEQ the documents or copies of the documents, unless such documents or copies are protected by privilege. Additionally, if DEQ requests that some or all documents be preserved for a longer period of time, Michelin may, in lieu of longer preservation, relinquish custody of such documents to DEQ, which will thereafter retain custody of such documents.

XIII. DISPUTE RESOLUTION

32. Any disputes between Michelin and DEQ arising under this Consent Order shall be resolved as follows: if Michelin objects to any DEQ notice of disapproval or decision made pursuant to this Consent Order, Michelin shall notify DEQ's Project Coordinator in writing of its objections within 14 days after receipt of the decision. DEQ and Michelin then have an additional 14 days to reach agreement. If no agreement is reached after 14 days (or such period of time as to which both parties mutually agree), DEQ shall notify Michelin in writing of DEQ's final decision on the matter. Michelin shall then have 15 days from the date of service of the notice to file a petition for a declaratory ruling with the hearing clerk or Executive Director, in accordance with the Oklahoma Administrative Code (OAC) 252:002, Procedures of the

Department of Environmental Quality. A declaratory ruling, or refusal to issue such ruling, shall be subject to judicial review, as provided by the Administrative Procedures Act, 75 O.S. 1981, § 250 et seq. If no petition is filed in the time allowed, the DEQ decision shall become final and stipulated penalties shall begin to accrue (or continue to accrue, if the dispute concerns whether stipulated penalties are due).

33. Michelin is not relieved of its other obligations under this Consent Order while a matter is pending in dispute resolution.

34. Nothing in this section precludes the parties from using any form of alternative dispute resolution, when all parties to the dispute agree to it.

XIV. DELAY IN PERFORMANCE/STIPULATED PENALTIES

35. Except to the extent excused by the Force Majeure provisions or with respect to any extensions granted by DEQ, for each day that Michelin fails to complete a deliverable or meet a specified schedule in acceptable manner and by the specified deliverable due date, DEQ may assess stipulated penalties as set forth in Paragraphs 32, 38, and 39 of this Consent Order. DEQ will provide a written notice that stipulated penalties are accruing, and such penalties will extend through the period of correction. Payment shall be due within 30 days from the date of receipt by Michelin of a demand letter by DEQ. No penalty shall be assessed until DEQ determines that any such failure has substantially impeded completion of Work under this Consent Order.

36. If demand is made for payment and it is not disputed by Michelin, Michelin shall forward a check to:

Oklahoma Department of Environmental Quality
Financial and Human Resources Management
1000 N.E. 10th
Oklahoma City, OK 73117-1212

Checks should identify the name of the Site, the Site identification number, the account number, and this Consent Order. A copy of the check and/or transmittal letter shall be forwarded to the DEQ Project Coordinator.

37. Michelin may dispute whether penalties are due by invoking Section XV. However, Michelin may not invoke Section XIII to dispute the penalties associated with a final decision of the DEQ pursuant to Section XIII, although Michelin may appeal any such decision as allowed by law.

38. For the following major deliverables, stipulated penalties shall accrue in the amounts of \$100 per day, per violation, for the first week of noncompliance; \$200 per day, per violation, for the 8th through 14th day of noncompliance; and \$500 per day, per violation, for the 15th day and beyond of noncompliance:

- (1) Work Plan: to be submitted to DEQ within 60 days of the signing of this Consent Decree. This deadline may be extended through mutual agreement, if deemed necessary.

39. For monthly progress reports, any other deliverables, or violations of this Consent Order, stipulated penalties shall accrue in the amount of \$100 per day, per violation, for the first week of noncompliance; \$200 per day, per violation, for the 8th through 14th day of noncompliance; and \$500 per day, per violation, for the 15th day and beyond of noncompliance.

40. During the pendency of any dispute resolution related to the Consent Order, Michelin shall not be required to pay any stipulated penalties. If Michelin is unsuccessful in any dispute resolution, Michelin shall be liable for stipulated penalties as set forth herein.

41. Nothing in this Consent Order shall be construed to prevent the waiver of imposition of all or any part of any stipulated penalties.

XV. FORCE MAJEURE

42. Michelin shall notify DEQ of any delay or anticipated delay in achieving compliance with any requirement of the Consent Order, caused by circumstances beyond the control of Michelin that cannot be overcome by reasonable due diligence. When any event occurs or has occurred that may delay or prevent the performance of any obligation under this Consent Order, which Michelin believes is due to Force Majeure, Michelin shall notify by telephone the Project Coordinator, or, in his absence, the Director of the Waste Management Division of the DEQ, within 24 hours of Michelin's discovery of the commencement of such event, to the extent practicable.

43. For purposes of this Consent Order, a Force Majeure is defined as an event or events arising from a cause or causes beyond the reasonable control of Michelin and which could not have been prevented by the exercise of reasonable due diligence, and that delays the performance, in whole or in part, of any obligation under this Consent Order.

44. Oral notification shall be followed by written notification, within seven (7) business days of the date on which Michelin knew of the event causing the delay or anticipated delay. The written notification shall fully describe the reasons for the delay; the reasons the delay is beyond the control of Michelin; the anticipated duration of the delay; actions taken or to be taken to prevent or minimize the delay; a schedule for implementation of any measures to be

taken to mitigate the effect of the delay; and a statement as to whether, in the opinion of Michelin, such event may cause or contribute to any endangerment to public health, welfare or the environment. Michelin shall adopt all reasonable measures to avoid or minimize such delay.

45. Any delay which Michelin demonstrates results from circumstances beyond their control that cannot be overcome by reasonable due diligence on their part, shall not be deemed to be a violation of their obligations under this Consent Order, and shall not make them liable for stipulated penalties. To the extent a delay is attributable to Force Majeure, the schedule affected by the delay shall be extended for a period equal to the delay directly resulting from such circumstances. Upon an adequate showing that the schedule was delayed by Force Majeure, DEQ will modify the Work Plan schedule accordingly. In addition to the definition set forth herein, Force Majeure shall also include, but not be limited to, natural disasters, national emergencies, abnormal adverse weather conditions, or delays in obtaining approval by DEQ or other entities not attributable to Michelin. Normal inclement weather, increased costs of performance of the terms of this Consent Order, changed economic circumstances, or the failure of Michelin to make timely and complete application for any required approval, shall not be considered for Force Majeure.

XVI. OVERSIGHT COSTS

46. Within 30 days from the effective date of this Consent Order, Michelin shall submit a check for \$7,500 to DEQ, made payable to the DEQ as set forth in Paragraph 47. DEQ will establish an account for Michelin with these funds, from which DEQ will draw to pay its costs necessary for oversight of this Consent Order. DEQ shall provide a quarterly accounting to Michelin of moneys received and disbursed. Whenever the fund is depleted, DEQ shall send Michelin a demand for payment for any additional oversight costs incurred, including a statement of costs providing Michelin with an explanation of amounts, dates, description of activities, purpose, entity or persons to whom paid, and the manner of calculation for all oversight costs. If requested within five (5) working days of receipt of said demand, DEQ shall make available the underlying cost documentation. If Michelin does not request the underlying cost documentation within five (5) working days, payment shall be made within 60 days of the receipt of the demand.

47. A. Oversight costs shall include all reasonable and direct costs of DEQ's oversight arrangement for the investigation including, but not limited to, time and travel costs of DEQ personnel, contractor costs, and the costs of collecting and analyzing split samples.

B. The salary and fringe benefit component of oversight costs shall be charged as direct costs.

C. Indirect costs will be charged at the rate of 16.8% of direct salaries. Such salaries shall be calculated from the time and effort sheets of pertinent DEQ personnel.

48. Checks should identify the name of the Site, the Site identification number, the account number, this Consent Order, and be forwarded to:

Oklahoma Department of Environmental Quality
Financial and Human Resources Management
1000 N.E. 10th
Oklahoma City, OK 73117-1212

49. Copies of the transmittal letter and check shall be sent simultaneously to the DEQ Project Coordinator.

50. Michelin shall have the right to audit any accounting submitted by DEQ. Such audit shall be at Michelin's expense. Subject to Section XVI, DEQ shall promptly credit any overcharges to Michelin's account.

XVII. LIABILITY

51. DEQ shall not be liable for any injuries or damages to persons or property resulting from any negligent acts or omissions of Michelin, Michelin's employees, agents, receivers, trustees, successors, assigns, contractors, subcontractors or any other person acting on Michelin's behalf in carrying out any activities pursuant to the terms of this Consent Order. Michelin shall not be liable for and does not assume liability for any injuries or damages to persons or property resulting from acts or omissions of DEQ or any person acting by, through or under them or on their behalf in carrying out any activity under this Consent Order or in any other capacity. However, DEQ is not excused from any liability for matters arising from negligent or willful acts or omissions of DEQ or any persons acting on its behalf.

XVIII. INDEMNIFICATION

52. Michelin agrees to indemnify and hold harmless the State of Oklahoma, its agencies, departments, agents, and employees, from any and all claims or causes of action arising from or on account of any negligent or willful acts or omissions of Michelin, their employees, agents, servants, receivers, successors, assignees including, but not limited to, firms, corporations, subsidiaries and contractors, in carrying out activities under this Consent Order in each case, except to the extent attributable to acts or omissions of DEQ, its agents, representatives and employees. The State of Oklahoma or any agency or authorized representative thereof shall not be held as a party to any contract entered into by Michelin in carrying out activities under this Consent Order.

XIX. EFFECTIVE DATE, SUBSEQUENT MODIFICATION, AND TERMINATION

53. The effective date of this Consent Order shall be the date on which it is signed by both DEQ and Michelin.

54. This Consent Order may be amended by mutual agreement of DEQ and Michelin. Amendments shall be in writing and shall be effective when signed by both Michelin and DEQ.

55. No informal advice, guidance, suggestions, or comments by DEQ regarding reports, plans, specifications, schedules, and any other writing submitted by Michelin will be construed as relieving Michelin of their obligation to obtain such formal approval as may be required by this Consent Order.

WHEREFORE, the parties enter into this Consent Order.

Mark L. Coburn
For the State of Oklahoma

Executive Director
Title

10/9/97
Date

[Signature]
For Michelin North America, Inc.

Vice President, Secretary & General Counsel
Title

3 October 1997
Date

DRAFT MEMORANDUM

DATE: September 26, 1997
TO: Barbara Rauch
FROM: Ray Roberts
RE: BFG/Michelln
CC: Scott Thompson, David Cates, Mary Jane Calvey

Mary Jane Calvey has provided Preliminary Remediation Goals for the former B. F. Goodrich plant in Miami, Oklahoma for Residential, Industrial and Aquatic Organism protection for Surface Soil and for sediments within the lagoon. Also included are groundwater and surface water standards. The "soil to GW" column was provided by David Cates and I. Based on the very limited site specific information we consider USEPA generic 20 DAF SSLs appropriate as PRGs, at least until such time as additional site specific information is available to form a better basis to calculate more site specific numbers. These levels could also change based on a Risk Assessment.

As Mary Jane has indicated, use of Preliminary Remediation Goals for a commercial industrial scenario necessitates appropriate institutional controls remaining in place to limit use of the property for residential or recreational purposes. For unrestricted future use of the property, residential remediation goals would have to be achieved.

Preliminary Remediation Goals for the Michelln/BFG site

Chemical	Surface Soil/R mg/kg	Surface Soil/Com mg/kg	Ground water mg/L	Soil to GW mg/kg	Soil/Eco tox mg/kg	Surface Water mg/L
Arsenic	20	50	0.05	29	29	.2 As III
Barium	18,900	142,800	2	1600	NA	1
Cadmium	34	510	0.005	8	101AET	.001
Chromium	85	2550	0.1	38	NA	.011
Lead	500	1000	0.015t		387AET	NA
Mercury	5	40	0.002	2		NA
Selenium	340	340	0.05	5	17.5AET	0.01
Silver	340	2550	0.1 S	34	NA	0.0001

AET = sediment toxicity levels 1 = tap water S = Secondary MCL

	SURFACE SOIL RESIDENTIAL	SURFACE SOIL COMMERCIAL	GROUND WATER	SOIL TO GROUNDWATER	SOIL TO TOX.	SURFACE WATER
Volatile Organics						
Acetone	6750	51,000		18		
Benzene	5.5	60	0.005	0.03		
Ethyl benzene	6,750	51,000	0.7	13	10 - 100 PPM	32
Isopropyl benzene	2,700	20,400	NA	NA	NA	NA
Methyl Ethyl Ketone	162,004 0,5000	sat	100ppm @	454**	NA	NA
n-Butyl benzene	NA	NA	NA	NA	NA	NA
sec-Butyl benzene	NA	NA	NA	NA	NA	NA
n-Propyl benzene	NA	NA	NA	NA	27 TEC ₂₀	0.8 LEC ₂₀
Chloro benzene	5,400	40,800	0.1	1		0.129
1,2 Dichloroethane	NA	NA	0.005	0.02		
1,2, Dichloro propane	NA	NA	0.005	NA	NA	NA
Isopropyl toluene	NA	NA	NA	NA	4,750 LD ₅₀	NA
4-Methyl-2 pentanone	NA	NA				
1,2,4 Trimethyl benzene	3,900	100,000				
1,3,5 Trimethyl Benzene	3,900	100,000				
Toluene	1,350	10,200	1.0	12	100 mg/kg	17 mg/L
Trichloroethene	2.3	20	0.005	0.06		
Xylenes	160,000	sat	10.0	333**		100 ppm
Naphthalene*	2,700	20,400	0.02 H	84		0.6 mg/L
Semi-Volatile Organics (PAH levels related to B(a)P toxicity information)						
Acenaphthalene	16,200	122,400	NA		NA	NA
Anthracene	.8	40	0.0002	12,000		
Benz(a)anthracene	.8	40	0.0002	NL		0.03

	SURFACE SOIL RESIDENTIAL	SURFACE SOIL COMMERCIAL	GROUNDWATER	SOIL TO GROUNDWATER	SOIL (ECL) TOX	SURFACE WATER
Benzo(b)fluoranthene	.8	40	0.0002	2		0.0003
Benzo(k)fluoranthene	.8	40	0.0002	49		0.0003
Benzo(g,h,i)perylene	.8	40	0.0002			0.0003
Benzo(a)pyrene	0.08	4	.00002	8		0.0003
Chrysene	.8	40	0.0002	180		0.0003
Dibenz(a,h) anthracene	.8	40	0.0002	2		0.0003
Dibenzofuran	NA					
Fluoranthene	10,800	81,600	0.04 DWEL	4300		4
Fluorene	10,800	81,600	.000003 DWEL	560		0.03LE C
Indeno(1,2,3- cd)pyrene	.8	40	0.0002	14		0.0003
2-Methylnaph thalene	NA	NA				
Naphthalene*	2,700	20,400	0.02 H	84		
N-nitroso di-n propylamine	NA	NA				
Phenanthrene	.8	40	0.0002	0.337**		
Pyrene	.8	40	0.0002	4200		
PCBs	1	5	Based on 1996 EPA Guidance			

* Naphthalene detected by volatile and semi-volatile analyses

** Calculated number--no SSL from EPA tables available

Semi-volatiles were not analyzed in several areas (e.g. the landfill). Further site specific information may be needed to determine if it is appropriate to sample and clean up for semi-volatiles in all areas.

@ organoleptic or aesthetic properties

NA - Not available

NL - Non-leachable

DWEL Drinking Water Equivalent Level

H Toxicity Information from HEAST



7020 0640 0001 1509 7167

\$8.20

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